

concluded that, to the extent the defendant was sued in her individual capacity, she was entitled to qualified immunity because plaintiff failed to show she acted with deliberate indifference to his safety. To the extent the defendant was sued in her official capacity, the magistrate judge concluded that a claim for money damages was barred by the Eleventh Amendment to the Constitution.


In his objections, plaintiff states he filed an emergency grievance against the defendant after being placed in a cell with a gang member. He also questions how the defendant, a safe prison supervisor, could not have known he was placed in the wrong cell.

In order for the defendant to be liable in this action, plaintiff must show she was aware he was exposed to a substantial risk of serious harm and that she consciously disregarded the risk. *Adams v. Perez*, 311 F.3d 508, 512 (5th Cir. 2003). The magistrate judge correctly concluded plaintiff failed to satisfy this burden. Plaintiff has submitted no competent summary judgment evidence demonstrating the defendant was aware he had been placed in a cell with a gang member. While plaintiff wrote a grievance against her, he has not shown she ever saw the grievance. Another prison official responded to the grievance. Nor has plaintiff otherwise shown the defendant knew he had been placed in a cell with someone who was likely to harm him. As a result, the defendant is entitled to summary judgment in this matter.

ORDER

Accordingly, the objections filed by plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. The motion for summary judgment is **GRANTED**. A final judgment shall be entered dismissing this lawsuit.

SIGNED at Beaumont, Texas, this 16th day of February, 2021.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE